

Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 09-4630/1	Introduction Number SB-669	
Description Willful misclassification of an employee as a nonemployee by a person engaged in the painting or drywall finishing of buildings or other structures with intent to evade the laws related to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination and providing a penalty		
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <div style="margin-left: 20px;"> <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="margin-left: 20px;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate <div style="margin-left: 20px;"> <div style="display: flex; justify-content: space-between;"> <div> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> </div> </div> </div> <div style="width: 33%;"> 5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.445(1)(a) </div> <div> Affected Ch. 20 Appropriations </div> </div>		
Agency/Prepared By DWD/ Robert Anderson (608) 266-3345	Authorized Signature Andrew Feldman (608) 266-2284	Date 4/13/2010

Fiscal Estimate Narratives

DWD 4/13/2010

LRB Number	09-4630/1	Introduction Number	SB-669	Estimate Type	Original
Description Willful misclassification of an employee as a nonemployee by a person engaged in the painting or drywall finishing of buildings or other structures with intent to evade the laws related to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

In Act 28, laws of 2009 the Legislature created a \$25,000 fine for employers engaged to build construction projects who intentionally mis-classify employees as independent contractors. This bill extends that penalty to apply to instances where an employer working on a painting and/or dry walling project that is not part of a construction project intentionally mis-classifies a worker as an independent contractor.

Enforcement of this provision will be performed either by the Unemployment Compensation, Workers Compensation or the Equal Rights Divisions. Individuals conducting the initial investigation of potential violations and making the initial determination of potential violations will be either be Equal Rights Officer – Senior level positions or their equivalent level positions in the other divisions.

The department anticipates that it will become aware of potential violations either by random visits to construction sites or by third parties [not employees or the employer] filing complaints with the department. The department anticipates the specific changes proposed in this legislation will generate 15 instances a year where the department will initiate an investigation of an employer for having classified an employee as a non-employee. The department anticipates that investigations will consume an average of 20 hours of an Equal Rights Officer – Senior's time [or equivalent position]. To investigate 15 complaints the department will consume about .15 of an Equal Rights Officer – Senior [or equivalent position] time each year. An Equal Rights Officer – Senior with fringe benefits costs the department \$78,036 per year. The cost to investigate the 15 complaints will be about \$11,700 to the department.

The department anticipates that 1/2 of the investigations it conducts of potential violations of this bill will result in litigation of the violations and assessment of the \$25,000 fine. The department therefore estimates the state will collect an additional \$175,000 in revenue based upon fine collections which will go to the school fund.

The department does not perceive any local governmental costs associated with this legislation.

Long-Range Fiscal Implications

The department anticipates the first year expenses and revenue will continue for the foreseeable future.

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): None.							
II. Annualized Costs:	Annualized Fiscal Impact on funds from:						
	Increased Costs Decreased Costs						
A. State Costs by Category							
State Operations - Salaries and Fringes	\$8,830						
(FTE Position Changes)							
State Operations - Other Costs	2,870						
Local Assistance							
Aids to Individuals or Organizations							
TOTAL State Costs by Category	\$11,700						
B. State Costs by Source of Funds							
GPR	11,700						
FED							
PRO/PRS							
SEG/SEG-S							
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)							
	Increased Rev Decreased Rev						
GPR Taxes	\$						
GPR Earned							
FED							
PRO/PRS							
SEG/SEG-S							
TOTAL State Revenues	\$						
NET ANNUALIZED FISCAL IMPACT							
	State Local						
NET CHANGE IN COSTS	\$11,700						
NET CHANGE IN REVENUE	\$						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">Agency/Prepared By</td> <td style="width: 40%;">Authorized Signature</td> <td style="width: 20%;">Date</td> </tr> <tr> <td>DWD/ Robert Anderson (608) 266-3345</td> <td>Andrew Feldman (608) 266-2284</td> <td>4/13/2010</td> </tr> </table>		Agency/Prepared By	Authorized Signature	Date	DWD/ Robert Anderson (608) 266-3345	Andrew Feldman (608) 266-2284	4/13/2010
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Agency/Prepared By DWD/ Richard Tillema (608) 267-9807	Authorized Signature Andrew Feldman (608) 266-2284	Date 4/15/2010

Fiscal Estimate Narratives

DWD 4/15/2010

LRB Number	09-4630/1	Introduction Number	SB-669	Estimate Type	Updated
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Assumptions Used in Arriving at Fiscal Estimate

The 2009 budget bill, 2009 Wisconsin Act 28, created sections 71.63(3)(d), 102.07(8)(d), 108.24(2m) and 111.327, which provide for fines of \$25,000 for certain acts and false statements by employers in misclassifying workers with intent to evade certain laws.

By the terms of those provisions created by Act 28, the provisions apply to "any employer described in s. 108.18(2)(c)."

Section 108.18(2)(c) refers to employers "engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects."

This bill, SB-669, merely assures that the scope of the newly created sections, 71.63(3)(d), 102.07(8)(d), 108.24(2m) and 111.327, will encompass employers engaged in "painting and drywall finishing of buildings or other structures" for purposes of those sections and the fines created by Act 28.

Section 108.18(2)(c) has been in existence for years prior to 2009. The Department of Workforce Development staff currently responsible for administering 108.18(2)(c) have consistently treated employers engaged in "painting and drywall finishing of buildings or other structures" as within the meaning of the term "construction" when applying section 108.18(2)(c).

The fines were created entirely by Act 28 and the effect of SB-669 is solely confirmation or clarification of the intent of Act 28. SB-669 will have no fiscal impact.

Long-Range Fiscal Implications

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<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">II. Annualized Costs:</td> <td colspan="2" style="text-align: center;">Annualized Fiscal Impact on funds from:</td> </tr> <tr> <td></td> <td style="width: 25%; text-align: center;">Increased Costs</td> <td style="width: 25%; text-align: center;">Decreased Costs</td> </tr> </table>		II. Annualized Costs:	Annualized Fiscal Impact on funds from:			Increased Costs	Decreased Costs
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	Increased Costs	Decreased Costs					
A. State Costs by Category							
State Operations - Salaries and Fringes	\$	\$					
(FTE Position Changes)							
State Operations - Other Costs							
Local Assistance							
Aids to Individuals or Organizations							
TOTAL State Costs by Category	\$	\$					
B. State Costs by Source of Funds							
GPR							
FED							
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III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)							
	Increased Rev	Decreased Rev					
GPR Taxes	\$	\$					
GPR Earned							
FED							
PRO/PRS							
SEG/SEG-S							
TOTAL State Revenues	\$	\$					
NET ANNUALIZED FISCAL IMPACT							
	State	Local					
NET CHANGE IN COSTS	\$	\$					
NET CHANGE IN REVENUE	\$	\$					
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